S.B.CIVIL WRIT PETITION NO.5740/1994

Sohan Singh
v.
Board of Revenue & Ors.

Date of Order :: 8th March, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By instant petition for writ a challenge is given to the judgment dated 20.9.1994 passed by Board of Revenue for Rajasthan, Ajmer rejecting the revision petition preferred by the petitioner affirming the order dated 29.11.1990 passed by Commissioner, Colonisation, Bikaner.

The facts in brief are that the Assistant Commissioner, Colonisation, Kolayat by his order dated 14.3.1990 while accepting an application under Rule 13-A of the Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Colony Area) Rules, 1975 (hereinafter referred to as “the Rules of 1975”), ordered for special allotment of land in favour of petitioner in chak 27 DOBB, Murrabba No.195/47 and 195/137, Kolayat. The Deputy Commissioner, Colonisation, Bikaner on inquiry found that the Assistant Commissioner by order dated 14.3.1990 allotted land to the petitioner in violation of provisions of Rule 13-A of the Rules of 1975. The

Commissioner, Colonisation accordingly cancelled the allotment of land in favour of the petitioner exercising powers under sub-rule(3) of Rule 22 of the Rules of 1975. Being aggrieved by the same the petitioner preferred a revision petition before Board of Revenue which came to be rejected by the judgment impugned.

While giving challenge to the judgment dated 20.9.1994 it is contended by counsel for the petitioner that the Board of Revenue failed to appreciate the fact that the Commissioner, Colonisation cancelled the allotment of land without appreciating the correct application of Rule 13-A of the Rules of 1975. It is contended by counsel for the petitioner that there was no need of notifying the land for public auction as the other applicants viz. Bhagwan Singh, Sohan Singh and Mahaveer Singh withdrew their applications for allotment of the same land and the petitioner was the only aspirant to get the land allotted.

Heard counsel for the parties.

The Board of Revenue considered the entire matter in detail and reached at the conclusion that a device was adopted by the petitioner to avoid sale of the land by auction. The Board of Revenue after considering all facts of the case held that violation

of Rules of 1975 is writ large in allotment of land to the petitioner. The relevant portion of the discussion made by Board of Revenue in this regard reads as under:-

> "नियमों में यह स्पष्ट प्रावधान है कि आवंटन से पूर्व जो व्यक्ति प्रार्थनापत्र देते हैं उन सब के नाम नोटिस बोर्ड पर सात दिन पूर्व चस्पा किये जाते हैं और उसके पश्चात् एक से अधिक प्रार्थी होने पर नीलामी के द्वारा भूमि का आवंटन किया जाता है। अत: प्रस्तुत केस में ऐसा लगता है कि इन तीनों व्यक्तियों भगवानसिंह, सोहनसिंह व महावीरसिंह ने नीलामी प्रक्रिया से बचने के लिये मिलीभगत से सोहनसिंह पुत्र मंगलसिंह को आवंटन करवाने के लिये प्रार्थनापत्र लगा दिये ताकि यह लगे कि एक से अधिक व्यक्तियों ने प्रार्थनापत्र दे दिये हैं और बाद में इन तीनों व्यक्तियों ने अपने प्रार्थना पत्र विड्रो कर लिये, ताकि प्रार्थी सोहनसिंह पुत्र मंगलसिंह को ही सस्ती दर पर जमीन बिना निलामी से मिल सके और इस आवंटन का आदेश भी उसी दिन दिनांक 14.2.90 को कर दिया, जिस दिन कि अन्य तीनों व्यक्तियों के प्रार्थनापत्र अदम हाजरी में खारिज हुए हैं, जो इस बात का सबूत है कि केवल सोहनसिंह पुत्र मंगलसिंह को जमीन बिना नीलामी की प्रक्रिया अपनाये आवंटन करने का उद्देश्य था और जब इस तथ्य का पता आयुक्त उपनिवेशन को लगा तो उन्होंने नियम 22(3) की प्रदत्तर शक्तियों का प्रयोग करके आवंटी द्वारा रूपये जमा करवाने से पूर्व व कब्जा प्राप्त करने से पूर्व ही आवंटन निरस्त कर दुबारा बोली लगाकर नीलामी प्रक्रिया को अपनाने का आदेश दिया है, ताकि राज्य सरकार को इस भूमि की पूर्ण रकम मिल सके। अत: आयुक्त उपनिवेशन बीकानेर ने जो दिनांक 29.11.90 को आदेश पारित है, उसमें कोई कानूनी भूल नहीं की है।"

The finding given by the Board of Revenue is based on sound appreciation of facts available on

record and such a finding if not perverse or beyond the jurisdiction vested with the court below cannot be interfered with by this Court under Article 227 of the Constitution. The violation of provisions of Rule 13-A of the Rules of 1975 is apparent. In fact the petitioner adopted a device to frustrate the provisions of Rule 13-A of the Rules of 1975 for getting the allotment of land in his favour. In view of it I do not find any error in the judgment passed by Board of Revenue and also in the order passed by Commissioner, Colonisation, Bikaner cancelling allotment of land in favour of the petitioner. No interference of this Court under Articles 226 and 227 of the Constitution, therefore, is warranted.

The writ petition is accordingly dismissed.

(GOVIND MATHUR),J.

kkm/ps.